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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,498	01/15/2004	George L. Banta III	29766-74073	6186
30450	7590	12/29/2005	EXAMINER	
CUMMINS, INC.			HO, HA DINH	
11 SOUTH MERIDIAN			ART UNIT	
INDIANAPOLIS, IN 46204			PAPER NUMBER	

3681

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/758,498	Applicant(s) BANTA ET AL.	
	Examiner Ha D. Ho	Art Unit 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7, 21-23 and 25 is/are allowed.
- 6) ☐ Claim(s) 8-20 is/are rejected.
- 7) ☒ Claim(s) 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/15/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This is the first Office Action on the merits of Application No. 10/758,98 filed on 01/15/04. Claims 1-25 are currently pending.

Election/Restrictions

2. Applicant's election with traverse of the invention of Group 1 in the reply filed on 10/11/05 is acknowledged. The traversal is found persuasive and the requirement is therefore withdrawn.

Claim Objections

3. Claim 24 is objected to because of the following informalities: in line 1, "17" should be changed to --22--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 8-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following limitations in the claims lack antecedent basis:

- "the engine speed signal" in claim 8, line 2.

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- “the engine speed signal” in claim 8, lines 6-7.
- “the vehicle speed signal” in claim 8, line 7.
- “the clutch signal” in claim 8, line 7.
- “the engine speed signal” in claim 10, line 2.
- “the vehicle speed signal” in claim 10, line 6.
- “the engine speed signal” in claim 10, lines 8-9.
- “the vehicle speed signal” in claim 10, line 9.
- “the clutch signal” in claim 10, line 9.
- “the transmission” in claim 11, line 1.
- “the engine speed signal” in claim 12, line 2.
- “the engine speed signal” in claim 12, line 6.
- “the vehicle speed signal” in claim 12, lines 6-7.
- “the clutch signal” in claim 12, line 7.
- “the transmission” in claim 13, line 1.
- “the engine speed signal” in claim 14, line 2.
- “the vehicle speed signal” in claim 14, line 6.
- “the engine speed signal” in claim 14, line 10.
- “the vehicle speed signal” in claim 14, lines 10-11.
- “the clutch signal” in claim 14, line 11.
- “the transmission” in claim 15, line 1.
- “the engine speed signal” in claim 16, line 5.
- “the engine speed signal” in claim 16, line 9.

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- “the vehicle speed signal” in claim 16, lines 9-10.
- “the clutch signal” in claim 16, line 10.
- “the transmission” in claim 17, line 1.
- “the transmission” in claim 18, line 1.
- “the engine speed signal” in claim 18, line 9.
- “the engine speed signal” in claim 18, line 17.
- “the vehicle speed signal” in claim 18, lines 17-18.
- “the clutch signal” in claim 18, line 18.
- “the engine speed signal” in claim 19, line 5.
- “the vehicle speed signal” in claim 19, line 9.
- “the engine speed signal” in claim 19, line 13.
- “the vehicle speed signal” in claim 19, lines 13-14.
- “the clutch signal” in claim 19, line 14.
- “the transmission” in claim 20, line 1.

Allowable Subject Matter

6. Claims 1-7, 21-23 and 25 are allowed.
7. Claims 8-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
8. Claim 24 would be allowable if rewritten to overcome the objection(s) set forth in this Office action.

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9. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not disclose or render obvious a motivation to provide for a system/method for controlling deceleration of an engine crankshaft of an internal combustion engine as defined by the limitations of claims 1 and 22; including an engine retarding device producing a retarding torque for decreasing rotational speed of the engine crankshaft, and a control computer controlling deceleration of the engine crankshaft by limiting the retarding torque when the engine retarding device is operational and the engine is operating with low inertia.

Cited Prior Art

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Dresden et al.'615, Bellinger'883, Markyvech'069, and Genise et al.'768 which each shows a power train system having a engine retarding torque means for retarding the engine speed.

Communication

11. Submission of your response by facsimile transmission is encouraged. The fax phone numbers for the organization where this application or proceeding is assigned are **(571) 273-8300**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see M.P.E.P. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a

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Certificate of Transmission (M.P.E.P.. 512). The following is an example of the format the certification might take:

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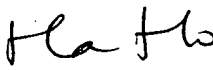
(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P.. 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ha D. Ho whose telephone number is **571-272-7091**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on **571-272-7095**.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HDH
(571) 272-7091
December 22, 2005


HA HO
PRIMARY EXAMINER
Art Unit 3681 12/22/05